

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

REGINALD THOMAS HENDERSON,

Petitioner,

v.

Civil Action No. **3:15CV248**

HAROLD W. CLARKE,

Respondent.

MEMORANDUM OPINION


Petitioner, a Virginia prisoner proceeding *pro se*, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court reviewed Petitioner's § 2254 submission and noted that it is not clear from Petitioner's submission whether he wished to pursue a civil rights action challenging the conditions of his confinement under 42 U.S.C. § 1983 or a petition for a writ of habeas corpus under 28 U.S.C. § 2254. "[T]he settled rules [provide] that habeas corpus relief is appropriate only when a prisoner attacks the fact or duration of confinement, *see Preiser v. Rodriguez*, 411 U.S. 475 (1973); whereas, challenges to the conditions of confinement that would not result in a definite reduction in the length of confinement are properly brought" by some other procedural vehicle. *Olaide v. B.I.C.E.*, 402 F. Supp. 2d 688, 695 (E.D. Va. 2005) (emphasis omitted) (internal parallel citations omitted) (citing *Strader v. Troy*, 571 F.2d 1263, 1269 (4th Cir. 1978)).

By Memorandum Order entered on August 3, 2015, the Court directed Petitioner, within fifteen (15) days of the date of entry thereof, to inform the Court whether it had properly characterized his claims as claims brought pursuant to 42 U.S.C. § 1983. The Court warned Petitioner that if he failed to respond in a timely manner, the Court would dismiss the action without prejudice.

More than fifteen (15) days have elapsed and Petitioner has not responded to the Court's Memorandum Order. Accordingly, the action is DISMISSED WITHOUT PREJUDICE. A certificate of appealability is DENIED.

An appropriate Order shall accompany this Memorandum Opinion.

Date: **SEP 18 2015**
Richmond, Virginia

/s/ 
M. Hannah Lauck
United States District Judge